

<b>DEPARTMENT OF HUMAN RESOURCES FAMILY INVESTMENT ADMINISTRATION</b>	<b>FOOD SUPPLEMENT PROGRAM MANUAL</b>	
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### **130.1 Purpose**

This section describes the Food Supplement work requirements, exemptions from work requirements and Food Supplement Employment and Training (FSET).

### **130.2 General Policy**

- A. In May 2015, the State of Maryland elected to become a voluntary state for work participation requirements.
- B. As a voluntary state, the Food Supplement Program (FSP) requires that each able bodied adult household member, who is not exempt under 130.5, complete a work registration, but participation in a work activity is voluntary except as noted in 130.2C. below.
- C. Only able bodied adults without dependents (ABAWDs) are required to complete Food Supplement work registration **and** participate in approved work activities or become employed.
- D. The statewide ABAWD waiver expired December 31, 2015.

### **130.3 Registration Procedure**

- A. The LDSS case manager:
  1. Determines which household members must register for work;
  2. Work registers each individual who is not exempt under 130.5 using the CARES Work screen, and
  3. Registers each mandatory individual at initial certification and at every recertification as a condition of eligibility.
  5. Ensures that the CARES WORK screen is updated and correct for each individual at application and recertification.
- B. It is not necessary for work registration to be done in person.

### **130.4 Determination of Exemption Status**

- Make a determination of which household members do not have to be work registered at the time of initial certification and at each subsequent recertification.

**Note: Register** individuals who lose an exemption, but are not subject to reporting requirements at their next redetermination.

### **130.4 Determination of Exemption Status for Work Registration**

After applying the statutory exemption criteria in 130.5, determine if there is a reason to grant an individual exemption based on the circumstances described in 130.6.

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### 130.5 Statutory Exemptions from Work Registration

The following individuals do not have to be work registered:

- A. **A child younger than age 16.** Individuals age 16 and 17 are exempt if they are not the head of household or if they are attending school or are enrolled in an employment training program at least half-time.
  - B. **A person 60 years of age or older.**
  - C. **A person physically or mentally unfit for employment.** Require verification of the mental or physical disability only if the disability is not evident.
    - Appropriate verification consists of receipt of temporary or permanent disability payments issued by public or private sources or
    - A statement from a health care provider.
  - D. **A household member subject to, and complying with, any work requirement under Title IV of the Social Security Act.** This includes compliance with Temporary Cash Assistance (TCA) work requirements.
- Note:** Some TCA customers are not subject to TCA work requirements (i.e. needy caretaker relative). If not exempt, they are subject to FSET.
- E. **A parent or other household member who is responsible for the care of a dependent child under age 6 or an incapacitated individual.**
    - If the child has his or her 6<sup>th</sup> birthday within a certification period, the individual responsible for the care of the child must fulfill the work registration requirement at the next scheduled recertification unless the individual qualifies for another exemption.
  - F. **A person who is receiving unemployment compensation.** A person who has applied for, but has not yet begun to receive benefits is also exempt if that person was required to register for work as part of the unemployment compensation application process.
    - Verify the application for or receipt of unemployment through MABS
  - G. **A regular participant in a drug addiction or alcoholic treatment program.**
  - H. **A person who is employed 30 hours weekly or is self-employed and working a minimum of 30 hours weekly,** receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours.

- This includes migrant and seasonal farm workers who are under contract with an employer or crew chief to begin employment within 30 days.

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- A person must be self employed at least **20** hours per week, averaged monthly, to meet the **ABAWD** requirement.

### **130.5 Statutory Exemptions from Work Registration (continued)**

#### **I. A student enrolled at least half time with any recognized school, training program, or institution of higher education.**

1. A student enrolled at least halftime in a school of higher education must meet the requirements in Section 102.3 of the manual.
2. The student remains exempt during normal periods of class attendance, vacations, and recesses, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).
3. Persons who are not enrolled at least half time or experience a break in enrollment status due to graduation, expulsion or suspension, or who drop out or do not intend to return to school are not considered students for the purpose of qualifying for this exemption.

### **130.6 Individual Exemptions**

- A. Household members who must be work registered may still be individually exempted.
- B. The fact that the customer has a condition that **could be** considered an individual exemption does not automatically grant the individual exemption.
  - The situation must exist and the case manager must decide that it makes participation in work program activities impractical.
- C. Determine individual exemptions on a case-by-case basis and review the exemption again at recertification.
- D. The individual exemptions include:
  1. Older individual – Registrant is age 55 or older with no formal skill training and has not been employed within the last 10 years and has less than a 10<sup>th</sup> grade education.
  2. Multiple barriers – Registrant has multiple barriers to employment, including but not limited to, alcohol or drug abuse, lack of a driver's license (making transportation to the work program site difficult).

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### **130.6 Individual Exemptions (continued)**

3. Child care difficulties – Registrant is the caretaker relative of a child aged 12 years or under and cannot arrange adequate childcare.
4. Family problems – The registrant is experiencing domestic abuse and must attend counseling sessions that conflict with employment and training participation.
5. Homelessness – The registrant lacks adequate shelter or a permanent home and has one or more other limitations, such as but not limited to, a history of alcohol or drug abuse, lack of transportation, or inadequate clothing.
6. Temporary illness or disability – The registrant has a temporary illness or disability and is unable to work for at least 90 days.
7. Job related – The registrant has been laid off temporarily with the expectation of returning to the same employer within 3 months or less or a registrant who has a verifiable offer of employment to begin within 90 days.
8. Transitional living arrangement – The registrant is living in a temporary arrangement such as a shelter for battered women or other temporary housing during a family emergency.
9. Migrant or seasonal worker – The registrant who moves from one region to another to work or seek work in agriculture or a related seasonal industry, or a registrant who is under contract or has a similar agreement with an employer to begin work within 30 days.
10. Convicted offender – The registrant is performing unpaid work for a minimum of 30 hours weekly in lieu of sentencing.
11. Pregnancy
12. Transportation difficulties – The registrant has no access to any mode of transportation or lives too far away (i.e. a round trip to and from the FSET program site or potential employer exceeds two hours by reasonable public or private transportation).

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### **130.7 Local Department Responsibility**

The LDSS will:

- A. Register for work each household member not exempt under the criteria listed in 130.5. Complete the work register fields on the CARES Work screen.
- B. Permit the applicant to complete work registration for each household member required to register for employment.
- C. Screen each work registrant to determine Able Bodied Adult Without Dependent (ABAWD) status. ABAWDS are covered more fully in section 130.25.
- D. Issue a notice of adverse action no later than ten days before the end of the certification period.

### **130.8 Food Supplement Employment and Training Program Voluntary Participants**

- A. As a voluntary state, Maryland has only voluntary E&T participants. ABAWDS are not mandatory FSET participants.
  - ABAWDs are mandatory for work participation but cannot be required to participate in a Food Supplement Employment and Training Activity (FSET).
  - ABAWDS who choose not to participate in a countable FSET activity or work at least 80 hours each month are eligible for only 3 months of FSP benefits. See Section 130.25 for details.
- B. For customers wanting to be voluntary participants, advise the individual of the services the FSET program provides.
- C. Volunteers are not subject to sanctions for non-compliance with FSET requirements.

### **130.9 FSP Employment and Training Program Work Requirement**

- Work Experience and workfare are governed by the Fair Labor Standards Act (FLSA) minimum wage requirements

### **130.10 Loss of Exemption Status**

- A. Update the work registration section of the CARES WORK screen when the change becomes known, for any individual who loses exempt status due to any change in circumstances, such as loss of employment or change in household composition.

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### **130.10 Loss of Exemption Status (continued)**

- B. Register individuals who lose their exemption status due to a change not subject to the reporting requirements at the household's next recertification.

### **130.11 Failure to Comply**

- A. **Individuals** who are required to be work registered are ineligible if they:

1. Refuse to be work registered
2. Voluntarily and without good cause quit a job; or
3. Voluntarily and without good cause reduce their work hours and after the reduction work less than 30 hours per week.

**Note:** If the individual continues to earn at least 30 times the federal minimum wage he or she is exempt from work requirements.

### **130.12 Failure to Comply with a Work Requirement under TCA or Unemployment Insurance.**

- A. When a TCA customer, who would be mandatory for FSP work registration, fails to comply with a TCA work requirement and is sanctioned, add TCA phantom income on the FSP case.

- Do not impose a sanction on the FSP for non-compliance with TCA requirements.
- Remove the phantom income at the next FSP redetermination.

- B. Do not use phantom income when a customer's unemployment insurance (UI) benefits are terminated for failure to comply with UI work requirements.

- Unemployment insurance is not a means-tested public benefit.

### **130.13 Ending a Disqualification**

- A. Following the end of the disqualification period for noncompliance with work registration requirements, voluntary quit or reduction in work hours, participation may resume if a disqualified individual applies again and is determined eligible.

- B. Eligibility may be established during a disqualification period if the disqualified household member becomes exempt from the work requirements.

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### **130.14 Suitable Employment**

Employment is considered suitable if the following conditions exist:

#### **A. Earnings**

1. The wages offered are equal to or more than the federal minimum wage;
2. The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably expect to earn is equal to or more than the federal minimum wage.

#### **B. Union Membership**

The household member, as a condition of employment, or continuing employment, is not required to join, resign from, or refrain from joining any legitimate labor organization.

#### **C. Strikes**

The work offered is not at a site subject to a strike or lockout at the time of the offer, unless the strike has been enjoined under §208 of the Labor-Management Relations Act (29 U.S.C. 78 commonly known as the Taft-Hartley Act), or unless an injunction has been issued under § 10 of the Railway Labor Act (45 U.S.C. 160).

### **130.15 Registrant Proof of Unsuitability for Voluntary Quit or Reduction of Work Hours**

Employment is considered suitable unless the household member can demonstrate, or the case manager becomes aware that:

- A. The degree of risk to health and safety is unreasonable;
- B. The member is physically or mentally unfit to perform the employment, as established by documentary medical evidence or reliable information obtained from other sources;
- C. The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment is not considered suitable if:
  1. Daily commuting exceeds 2 hours per day, not including transporting children to and from day care facilities; or

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2. The distance to employment prohibits walking and neither public nor private transportation is available to transport the member to the job site; or

D. The working hours or nature of the employment interferes with the member's religious observances, convictions or beliefs.

### **130.16 Participation of Strikers**

Strikers whose households are eligible under Section 101 are subject to work registration requirements unless exempt under 130.5.

### **130.17 Voluntary Quit and Reduction of Work Effort**

A. An individual is ineligible if, without good cause, the individual:

1. Voluntarily quit a job of 30 hours per week or more; or
2. Reduces his or her work effort voluntarily and without good cause and, after the reduction, is working less than 30 hours per week.

B. To be considered a voluntary quit the following conditions must exist:

1. The job was 30 hours or more per week or provided weekly earnings at least equivalent to the federal minimum wage multiplied by 30 hours;
2. The quit happened within 30 days prior to application or anytime thereafter; and
3. The quit was without good cause.

C. The reduction of work effort applies if:

1. Before the reduction, the individual was employed 30 hours or more per week,
2. The reduction occurred within 30 days prior to the date the application was filed or any time thereafter; and
3. The reduction was voluntary and without good cause.

### **130.18 Determination of Voluntary Quit**

A. When a household files an application or when a participating household loses a source of income, determine if any currently unemployed household member quit



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### **130.18 Determination of Voluntary Quit (continued)**

his or her job under the conditions described in Section 130.18. Do not delay benefits pending this determination.

- The case manager may use an unemployment benefit determination of status as a voluntary quit as basis for the case manager's decision.
- B. An employee of the federal, state or local government who participates in a strike against the government and is dismissed from his or her job because of participating in the strike is considered to have voluntarily quit the job without good cause.
- C. The following situations are not considered a voluntary quit:
1. If an individual quits a job, secures new employment at comparable wages or hours and is then laid off or, through no fault of his own, loses the new job, the earlier quit will not form the basis for disqualification.
  2. Changes in employment status resulting from an employer initiated reduction in hours of employment, termination of a self-employment enterprise, or a resignation from a job at the demand of the employer are not considered voluntary quit.
  3. Quitting a job that paid less than 30 times the hourly federal minimum wage.
- D. For an applicant household, determine whether any unemployed household member who is required to register for work or who is exempt because the individual is working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours, has voluntarily quit a job within the last 30 days. If the case manager learns that a household member has lost a source of income after the date of application but before the household is certified, the case manager must determine whether a voluntary quit occurred.
- E. Determine if any household member voluntarily quit a job within 30 days prior to FSP application, or in the time between application and certification. If the household member is already participating when a quit that occurred prior to certification is discovered, consider the individual as participating in the FSP for the purpose of imposing the penalty.
- F. Applicant Households.
1. In the case of an applicant, upon a determination that an individual voluntarily quit employment, determine if the voluntary quit was with good cause as

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### **130.18 Determination of Voluntary Quit (continued)**

defined in section 130.20. If the voluntary quit was not for good cause, the individual is ineligible for the following periods of time from the date of the quit:

- (a) First violation - one month or the date of compliance, whichever is later.
- (b) Second violation - three months or the date of compliance, whichever is later.
- (c) Third or subsequent violation - 6 months or the date of compliance, whichever is later.

#### **2. Advise the household of :**

- (a) The reason for the denial of benefits for the individual;
- (b) The length of the disqualification;
- (c) The individual's right to reapply at the end of the disqualification period; and
- (d) The individual's right to a fair hearing.

#### **G. Participating Households.**

##### **1. If an individual in a participating household is found to have voluntarily quit a job without good cause, provide a notice of adverse action within 10 days after determination of the quit. The notice must:**

- (a) Contain the particular act of non-compliance;
- (b) Contain the proposed period of ineligibility;
- (c) Contain the actions that may be taken to end or avoid the disqualification;
- (d) Contain information on requesting a fair hearing; and,
- (e) Specify that the individual may reapply at the end of the disqualification period.

##### **2. Voluntary Quit at the end of a Certification Period.**

- (a) If a voluntary quit occurred in the last month of a certification period or is determined in the last 30 days of the certification period, do not include the individual in the household for the appropriate period of time beginning with the day after the last certification period ends.

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### 130.18 Determination of Voluntary Quit (continued)

**Example:** Mr. A's certification period ends April 30. He reapplies on April 15 for himself and two children ages 14 and 15. At that time the case manager finds that he voluntarily quit his job on April 3. Since this is his second work requirement sanction, he is ineligible for three months or until the date of compliance, whichever is later.

- (b) If the household does not reapply for FSP benefits by the end of the certification period after a member voluntarily quits a job, establish an overpayment claim for the FSP benefits received by the household for the length of the penalty, as described in section 130.12 B, beginning the first of the month after the month in which the quit occurred.

**Example:** On May 15 the case manager discovered that Mr. B quit a job on March 4. This is his second violation. Mr. B's certification period ended May 31 and he did not reapply. Mr. B would not be eligible for April or May benefits. The penalty for a 2<sup>nd</sup> voluntary quit is three months or until compliance. The case manager establishes a overpayment claim for the FSP benefits received in April and May. Mr. B is not eligible until July 1 or until he complies with the work requirements whichever is later.

If Mr. B reapplies in July, if he is not working another job of 30 hours a week or equivalent to 30 times the federal minimum wage, he remains ineligible.

**NOTE:** If the participating household's FSP benefits continue pending a fair hearing FSP benefits do not extend past the end of the certification period and the local department determination is upheld, the disqualification period begins the first of the month after the hearing decision is rendered.

- H. The individual disqualified for quitting a job will remain ineligible for the length of the disqualification period even if the individual joins a new household.
- I. If an application for FSP benefits is filed in the last month of the disqualification period, use the same application for denial of FSP benefits in the remaining month of the disqualification and certification for any subsequent eligible months.

### 130.19 Exemptions from Voluntary Quit Provisions

Voluntary quit provisions do not apply to persons who are exempt from the work registration as described in 130.5 at the time of the quit.

**Exception:** The provisions **do** apply when the individual is exempt because the person is working a minimum of 30 hours per week or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours.

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### **130.20 Good Cause for Voluntary Quit**

Good cause for leaving employment includes the good cause provisions found in 130.13 and resigning from a job that does not meet the suitability criteria in Section 130.15. Good cause for leaving employment also includes:

- A. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs.
- B. Work demands or conditions that make continued employment unreasonable, such as working without being paid on schedule.
- C. Acceptance of employment, or enrollment of at least half time in any recognized school, training program, or institution of higher education, that requires the individual to leave employment.
- D. Acceptance by any other household member of employment or enrollment at least half time in any recognized school, training program, or institution of higher education in another jurisdiction which requires the household to move and therefore the individual to leave employment.
- E. Resignations by persons under the age of 60 which are recognized by the employer as retirements.
- F. Employment that becomes unsuitable by not meeting the criteria specified in 130.15 after acceptance of the employment.
- G. Acceptance of a bona fide offer of employment of more than 30 hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by 30 hours which, because of circumstances beyond the control of the wage earner, either does not materialize or results in employment of less than 30 hours a week or weekly earnings of less than the federal minimum wage multiplied by 30 hours.
- H. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for FSP benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, leaving the previous employment is considered good cause if it is a part of the pattern of that type of employment.

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### **130.21 Verification**

- A. When the information given by the household is questionable, request verification of the household's statements.
- B. The household has the primary responsibility for providing the verification. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, offer assistance to the household to obtain the verification.
- C. Acceptable sources of verification include, but are not limited to, the previous employer, employer associations, union representatives, and grievance committees or organizations. Whenever documentary evidence cannot be obtained, substitute a collateral contact. The local department is responsible for obtaining verification from acceptable collateral contacts provided by the household.
- D. Do not deny FSP eligibility, if a quit resulted from circumstances that cannot be verified such as discrimination or for unreasonable work demands.

### **130.22 Ending a Voluntary Quit Disqualification**

- A. Following the end of the disqualification period an individual may begin participation in the FSP if the individual applies again and is determined eligible.
- B. The individual may re-establish eligibility during a disqualification period if the violator becomes exempt from work registration except for reasons of TCA work registration or receipt of unemployment compensation.

### **130.23 Fair Hearings/Appeals**

- A. Each individual or household has the right to request a fair hearing to appeal the denial, reduction or termination of FSP benefits.

Note: In general, the only negative action that case managers will take is for refusal to be work registered without good cause, voluntary quit without good cause, or reduction of work hours.

- B. Individuals may also appeal the local department actions such as the determination of exemption status, the type of requirement imposed, or local department refusal to make a finding of good cause if the individual believes that a finding of failure to comply has resulted from improper decisions in these matters.

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### **130.24 Able-Bodied Adults without Dependents (ABAWDs)**

- A. Able-bodied adults without dependents, age of 18-49 are eligible for only 3 months of Food Supplement benefits within 36 months unless they meet certain work requirements.
- B. ABAWDS must meet the following requirements:
1. Work at least 80 hours per month (averaged 20 hours per week); or
  2. Participate in and comply with a Workforce Investment Act program, Trade Adjustment Assistance Act program, or Food Supplement Employment and Training program (other than job search or job search training program) for 20 hours per week; or,
  3. Participate in vocational or other training for 20 hours per week; or,
  4. Participate in a work experience program governed by the Fair Labor Standards Act (FLSA) requirements; or,
  5. Combine work and participation in a work program for a total of 20 hours per week averaged monthly.

**Note:** The 36-month period **is fixed** for the entire caseload. **The first 36-month period runs January 1, 2016 through December 31, 2018.**

- C. An individual does not meet the definition of an ABAWD if he or she is:
1. Under 18 years of age or age 50 or older - on his or her 50<sup>th</sup> birthday the individual is exempt from ABAWD requirements; or,
  2. Obviously physically or mentally unfit for employment as observed by the case manager or has provided a statement from a health provider if the disability is not obvious; or
  3. Receiving temporary or permanent disability benefits from a public or private source;
  4. Residing in a household where a household member is a dependent child. A dependent child is an individual who is age 18 or younger (The child under 18 does not to be part of the FSP household.)
  5. Pregnant;
  6. Otherwise exempt from FSP **statutory** work requirements (the categorical and individual exemptions do not apply to ABAWDS).

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### **130.24 ABAWDs (continued)**

- D. ABAWD participants who have received their 3 in 36 months of benefits can regain eligibility, if during a 30-day period the individual:
1. Worked 80 hours or more;
  2. Participated in and complied with a qualifying work program for 80 or more hours;
  3. Combined work and participation in a work program for a total of 80 hours; or
  4. Participated in a workfare program.
- E. If the employment or participation in a work program ends, FSP participation can continue for up to 3 consecutive months beginning from the date the local department is notified of the change. At the end of the second 3-months of eligibility, the only cures during the 36-month period will be to comply with the work requirement or to become exempt.
- F. FSP benefits received do not count toward the 3-month limit if:
1. The individual is exempt from work registration or ABAWD requirements; or
  2. The individual lives in an area that has an approved FNS waiver due to:
    - a. a high unemployment rate,
    - b. designation as a labor surplus area,
    - c. insufficient employment opportunities, or
    - d. part of the FNS allowed 15% exemption.

NOTE: Waivers are approved annually and are subject to change. The ABAWD policy is in effect in these jurisdictions in calendar year 2017: Anne Arundel, Baltimore, Calvert, Carroll, Charles, Frederick, Howard, Montgomery, Prince George's, St. Mary's and Washington Counties.

3. The individual is receiving the second three months of FSP benefits after regaining eligibility because employment or participation in a work program ended;
4. The individual is fulfilling the work requirement by:
  - (a) Working 20 hours per week (average 80 per month);
  - (b) Participating and complying with a Workforce Innovation and Opportunity Act program, Trade Adjustment Assistance Act program or Employment and Training program (other than job search or job search training) for 20 hours per week;

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### 130.24 ABAWDs (continued)

- (c) Participating in a work program and working for a total combination of 20 hours per week;
  - (d) Participating in a work experience program governed by the Fair Labor Standards Act (FLSA) requirements; or
5. The individual received a prorated FSP benefit. Any month in which the individual receives less than the full month's allotment is not considered when determining the three months of FSP benefits within a 36-month period.
- G. Good cause for non-compliance
- 1. If an individual would have worked an average of 20 hours per week, but missed some time for good cause, we consider the individual to have met the work requirement if the absence from work is temporary and the individual keeps the job.
  - 2. Good cause includes circumstances beyond the customer's control such as but not limited to:
    - (a) Illness;
    - (b) Illness of another household member (does not have to be a member of the FSP household) requiring the presence of the ABAWD<sup>2</sup> member;
    - (c) A household emergency;
    - (d) The unavailability of transportation.

### H. Counting Income and Assets

- 1. When the ABAWD is eligible and included in a household with other eligible members include all income and assets as available to the household.
 

**Example 1:** Mr. John aged 32 lives with two friends and purchases and prepares his food with them. The three receive FSP benefits. Mr. John was fired from his job and cannot receive unemployment benefits. He has \$500 in a savings account that he saved before he lost his job which is not counted because he is categorically eligible. His sister sends him \$50 per month. Count the money from Mr. John's sister as unearned income. Mr. John is considered an ABAWD as he did not voluntarily quit his job or reduce his work hours.
- 2. If the ABAWD would be part of the FSP household, but is ineligible for FSP benefits, count the ABAWD's income as available to the household.



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### 130.24 ABAWDs (continued)

**Example 2:** Ms. M aged 24 lives with her boyfriend and another friend. Ms. M reduced her work hours to 5 hours per week because she wanted to be home. She had been working 30 hours per week. The reduction is determined to not be with good cause and Ms. M is now disqualified for one month. The household receives FSP benefits. Ms. M receives alimony from her ex-husband of \$30 per month and she has \$400 in a savings account. Count the \$30 per month to the household as unearned income. The \$400 is not counted as an asset/resource because the household is categorically eligible. Ms. M is not responsible for any of the shelter costs.

At the end of the month's disqualification, Ms. M is added back to the household and receives 3 months of FSP benefits. After the three months she is ineligible to continue to receive benefits under ABAWD requirements.

Because Ms. M is now ineligible her income is prorated and made available to the house. Divide Ms. M's income (\$30 alimony) by the number of household members (3) and exclude only the portion that would be considered hers.

$\$30/3 = \$10$  (the portion that is Ms. M's). \$20 is countable unearned income to the household.

**Note:** The case manager must remember to narrate the case record thoroughly to explain what income/assets were or were not used and why.

#### I. Reporting Changes

1. ABAWDs are included in simplified reporting. (See Section 420 of the FSP manual)
2. ABAWDs must also report changes in work hours below 20 hours per week averaged 80 hours monthly.

### 130.25 ABAWDS Eligibility

#### A. Initial Eligibility

1. Unless otherwise exempt from work requirements, an ABAWD may receive a maximum of 3 "free" months 2 times in a 36 month period.
2. After receipt of the "**1<sup>st</sup> free 3 months**" (which do not have to be consecutive) the FSP benefits must end because of the ABAWD policy. The individual

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must “regain eligibility” in order to receive the “2<sup>nd</sup> free 3 months” (which must be consecutive).

### **130.25 ABAWDS Eligibility (continued)**

**Reminder:** To regain eligibility, the individual must complete at least 80 hours of work in 30 days or participate in and comply with the requirements of a work program for 80 or more hours or participate in a workfare program or become exempt.

3. The case manager must issue timely adverse action notice to ensure an individual receives only 3 months of non-exempt FSP benefits.

## **B. Subsequent Eligibility**

### **1. Regaining Eligibility**

Example 1: Mr. A is not exempt from the ABAWD requirement. He received his “1<sup>st</sup> free 3 months” FSP benefits in March, April and May 2016. His March benefits were not prorated. His eligibility ends effective 6/1/2016 because he was not working and was not otherwise exempt from the ABAWD requirements. He got a construction job on 7/6/2016 working 40 hours per week. He was laid off on 7/31/2016. On 8/4/2016 he applies for FSP benefits. Since his benefits ended because of the ABAWD requirement **and** he met the requirement to regain eligibility (worked 80 hours in 30 days) and he meets all other FSP eligibility requirements, he is certified to receive the “**2<sup>nd</sup> free 3 months**” for the period 8/4/2016 through 11/31/2016. His benefits for 8/2016 are prorated and not counted as part of his “3 free months.”

### **2. Maintaining Eligibility**

Example 2: Mr. B (not exempt) received his 1<sup>st</sup> “free 3 months” FSP benefits in 1/16, 2/16 and 3/16. His certification ended effective 4/1/16 because he was not working and was not otherwise exempt from the ABAWD requirements. He got a job as a mechanic on 8/11/16 working 25 hours per week. On 10/13/16 Mr. B applies for FSP benefits. At the time of application, the case manager verifies that he is still working at least 20 hours per week. Since Mr. B worked 80 hours in 30 days he regained eligibility. Mr. B meets all other FSP eligibility requirements and is certified to receive ongoing FSP benefits.

**NOTE: Even though Mr. B had to regain eligibility, because he is working 80 hours monthly, averaged 20 hours weekly, the FSP benefits he is eligible for, DO NOT count against the 2<sup>nd</sup> “free 3 months.”**

**REMEMBER:** “Regain to maintain” means the individual’s benefits ended after 3 months because of the ABAWD requirement and he or she has subsequently worked the “80 in 30” and CONTINUES to work at least 80 hours per month averaged 20 hours weekly. There is no limit to the number of times an individual may “regain to maintain” in a 36-month period.

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### 130.25 ABAWDS Eligibility (continued)

#### 3. Regained Eligibility

Example 3: Mr. C. (not exempt) received his 1<sup>st</sup> “free 3 months” FSP benefits in 1/2016, 3/16 and 4/16. His benefits were terminated effective 5/1/16 because he was not working and was not otherwise exempt from the ABAWD requirements. He got a job as a mechanic on 8/11/16 working 25 hours per week. On 10/13/16 Mr. C applies for FSP benefits. At the time of application the case manager verifies that he is working at least 20 hours per week. Since Mr. C worked 80 hours in 30 days, he regained his eligibility to maintain his eligibility. Mr. C meets all other FSP eligibility requirements and is certified to receive ongoing benefits. Mr. C continues to work and receive FSP benefits. On 1/20/17 Mr. C reports that he lost his job on 1/16/17 because the company went out of business. Mr. C is now eligible for his 2<sup>nd</sup> “free 3 months” of FSP benefits. The change in his allotment (reduction in income) is effective for 2/17. His FSP benefits end at the end of 4/17. The months of 2/17, 3/17 and 4/17 are Mr. C’s 2<sup>nd</sup> “free 3 months.”

**REMEMBER:** Mr. C is not eligible to receive FSP benefits for the remainder of the 36-month period unless he becomes exempt from work requirements, by working to “regain and maintain” or by meeting other ABAWD work requirements.

4. There may be situations when an individual has “regained eligibility” for the 2<sup>nd</sup> “free 3 months” but at the time of application is not eligible for FSP benefits. Such a situation could occur when a non-categorically eligible individual has excess resources when he or she “regains eligibility.”

**REMEMBER:** Nothing in the ABAWD provision makes an individual eligible for benefits if the individual is not otherwise eligible for FSP benefits under FSP policy.

#### 5. Regained Eligibility - Window of Opportunity

An individual who regained eligibility remains eligible for a consecutive 3-month period, beginning on the date that individual notifies the local department. This is the “window of opportunity” for the 2<sup>nd</sup> “free 3 months.”

**Example 5:** Mr. E (not exempt) received his 1<sup>st</sup> “free 3 months” FSP benefits in 3/16, 4/16 and 5/16. He was terminated effective 6/1/16 because he was not working and was not otherwise exempt from the ABAWD requirements. He got a job on 7/6/17 working 40 hours per week. He was laid off on 8/31/16. On 9/4/16 he applies for FSP benefits. Since Mr. E became “ABAWD eligible” on 9/4, the “window of opportunity” opened at that time. Because he applied and is eligible during the three month “window”, he is

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authorized for FSP benefits for the months of September, October and November (the 2<sup>nd</sup> “free 3 months”).

### **130.25 ABAWDS Eligibility (continued)**

**NOTE:** When Mr. E was terminated from the FSP effective 6/1/16 because of the ABAWD policy, he immediately qualified to regain eligibility for the 2<sup>nd</sup> “free 3 months.” He becomes eligible to receive those FSP benefits only after he does what is required to regain eligibility. Mr. E did what was required to regain eligibility for the 2<sup>nd</sup> “free 3 months.” Because Mr. E was terminated because of the ABAWD policy and subsequently did what was required to regain eligibility, the “window of opportunity” opened on 9/4/00 for the 2<sup>nd</sup> “free 3 months.”

**REMEMBER:** The “window of opportunity” opens beginning on the date **the** customer first tells the local department he no longer is:

- (a) working 20 hours per week averaged monthly, or
- (b) participating in and complying with the requirements of a work program for 20 hours or more per week, or participating in and complying with the requirements of a workfare program.

The “window of opportunity” remains open for 3 consecutive months.

#### **6. Regained Eligibility - Window of Opportunity Closes**

**The “window of opportunity” for receipt of the 2<sup>nd</sup> “free 3 months” closes at the end of the third consecutive month.**

**Example 6:** Ms. F (not exempt) received her “1<sup>st</sup> free 3 months” FSP benefits in 3/16, 4/16 and 5/16. She was terminated from the Food Supplement Program effective 6/1/16 because she was not working and was not otherwise exempt from the ABAWD requirements. She got a job on 7/6/16 working 40 hours per week. She was laid off on 8/31/16. On 1/3/17 Ms. F applies again for FSP benefits. Ms. F has not worked since she was laid off on 8/31/16. The case manager denies the application of 1/3/17 because she has not worked 80 hours in 30 days.

**NOTE:** Even though the “window” opened on 9/4/16, Ms. F did not apply during the 3-month window and the window closed on 11/30/16. Once the window closes, in order for Ms. F to become eligible for food supplement benefits she must again “regain” her eligibility. Since Ms. F. has done nothing to regain her eligibility after 11/30/16, the application of 1/3/17 is denied because of the ABAWD work requirements.

**REMEMBER:** The policy says an individual will regain eligibility to participate in the Food Supplement Program for a single three consecutive month period. Since Ms. F did not participate for a 2<sup>nd</sup> “free 3 months” she still has the

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opportunity to receive those FSP benefits when she does what is required to regain eligibility.